

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

MARIA CASTANEDA

§

vs.

§

Civil Action No. 4:22-cv-00911

THE HOME DEPOT, INC.

§

JURY DEMANDED

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, HOME DEPOT U.S.A., INC. (incorrectly named The Home Depot, Inc.) (“Home Depot”) and files this its Notice of Removal on the basis of diversity jurisdiction pursuant to 28 U.S.C. § 1332 et. seq., 28 U.S.C. § 1441 et. seq., and 28 U.S.C. § 1446 *et. seq.*, and would respectfully show the Court as follows:

1. Home Depot is the Defendant in a civil action pending in the 48th Judicial District Court of Tarrant County, Texas entitled *Maria Castaneda v. The Home Depot, Inc.*; Cause No. 048-336112-22 (hereinafter referred to as the “State Court Action”). As required by 28 U.S.C. §§ 1446(a), attached hereto as Exhibit “A” is the Index of Documents filed with the Notice of Removal, Exhibit “B” is the State Court Action Documents which includes a certified copy of the docket sheet (Case Summary) and true and correct copies of all process, pleadings, and orders served upon Home Depot in the State Court Action, and Exhibit “C” is a List of All Parties and Counsel, and Civil Cover Sheet.

2. The State Court Action was filed on or about September 1, 2022 and named Home Depot as the sole defendant. Home Depot was served with the Original Petition on September 12, 2022. In her Original Petition, Plaintiff alleged that on September 25, 2022 she fell while in the

parking lot of Home Depot located at 1151 Bridgewood Drive, Fort Worth, Texas. Plaintiff's petition alleges premises liability and negligence against Home Depot.

3. Plaintiff's Original Petition stated that she is seeking monetary relief over \$250,000.00. See Exhibit B-2 ¶ 1. Thus, it is facially apparent from Plaintiff's Original Petition that Plaintiff is seeking damages in excess of \$75,000, such that the amount in controversy requirement for diversity jurisdiction is satisfied

4. This Notice of Removal is timely filed by Home Depot within thirty (30) days of service upon it of the first pleading or other paper form from which it could be determined that the amount in controversy is in excess of \$75,000, exclusive of costs. *See* 28 U.S.C. § 1446(b).

DIVERSITY OF CITIZENSHIP

5. Plaintiff is, and was, at the time of the filing of this action, a citizen of the State of Texas.

6. Home Depot is and was at the time of the alleged incident and the filing of this lawsuit, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Atlanta, Georgia. Home Depot is thus a citizen of the States of Delaware and Georgia.

7. Consequently, the district courts of the United States have original jurisdiction over this action based on complete diversity of citizenship amongst and between the parties, in that Plaintiff and Home Depot are now, and were at the time this action commenced, diverse in citizenship from each other.

8. Under 28 U.S.C. § 1446(a), venue of the removed action is proper in this Court as it is in the district and division embracing the place where the State Court Action is pending.

9. Pursuant to 28 U.S.C. § 1446(d), Home Depot will promptly give written notice of the filing of this notice of removal to Plaintiff and will further file a copy of this Notice of Removal with the District Clerk of Tarrant County, Texas, where the State Court Action was previously pending.

10. **Jury Demand** – Home Depot hereby requests trial by jury on all issues and claims in this cause.

WHEREFORE, PREMISES CONSIDERED, Defendant, **Home Depot U.S.A., Inc.**, hereby removes the case styled *Cause No. 048-336112-22, Maria Castaneda v. The Home Depot, Inc.; Cause No. 22-DCV-291905; In the 48th District Court of Tarrant County, Texas*, and respectfully requests that this Court assume full jurisdiction of this proceeding for all purposes as if originally filed in this Court including, but not limited to, issuing any orders necessary to stay proceedings in the State Court Action.

Respectfully submitted,

BROTHERS, ALVARADO, PIAZZA & COZORT, P.C.

By: /s/ Karen M. Alvarado

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Attorneys for Defendant The Home Depot, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served upon the following counsel of record in compliance with Rule 5 of the Federal Rules of Civil Procedure on this the 11th day of October, 2022, as follows:

VIA EFILE/E-SERVICE

Dustin Brown
Stanley and Associates, PLLC
2600 K Avenue, Suite 180
Plano, TX 75074

BROTHERS, ALVARADO, PIAZZA & COZORT, P.C.

By: /s/ Karen M. Alvarado

Karen M. Alvarado